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Jan Hellaker

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EXAMINER

D AGOSTA, STEPHEN M

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/064,286	<b>Applicant(s)</b> HELLAKER, JAN	
	<b>Examiner</b> Stephen M. D'Agosta	<b>Art Unit</b> 2617	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 May 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 11,12,15-19 and 21-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-12, 15-18 and 21-24 and 26-46 is/are rejected.
- 7) ☒ Claim(s) 19 and 25 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5-4-2009 has been entered.

1. The applicant's response is incorrect, eg. *"..There were no after-final amendments. Thus, the claims are pending as they were amended in the May 13, 2008, Response to the December 13, 2007, Non-Final Office Action.."*. There was a FINAL office action mailed on 6-6-2008.

This is a moot point since a new rejection is found below.

2. The applicant did NOT respond to the examiner's objection to the Title. During prosecution, the scope of the claims has significantly changed and the examiner believes a more descriptive title is warranted.

3. The examiner notes that there are TWO separate and distinct inventive concepts which will be **restricted** in any "next" office action should the applicant choose not to amend them all such that they contain the SAME inventive concept.

Group 1: Claim 11 and 23 teach a car with cellular public/private transceiver and preemptive modes.

Group 2: Claims 21, 28, 34 and 37 teach a car with public/private transceiver and having sleep/standby modes based on message reception.

***Clearly claims 11 and 23 do NOT recite anything about sleep or standby modes which is a separate and distinct concept.***

4. A new rejection is found attached.

***Specification***

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

- Due to recent amendment(s), the examiner believes a more apt title can be applied which more closely defines the focus of the inventive concept, eg. perhaps something to do with pre-emptive call processing during an emergency call between central and mobile/remote users (?).
- As currently written, "System and method for communication between a central station and remote objects", the title reflects very little about the main focus of the newly amended concept(s).

***Claims - 35 USC § 101***

The claims all recite statutory apparatuses being involved for wireless (eg. cellular or satellite) transmission.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 11, 12, 15-18 and 23-25** rejected under 35 U.S.C. 103(a) as being unpatentable over Timm et al. US 5,572,204 and further in view of Nojima US 5,933,080 and {Uhlik et al. US 6,600,914 **or** Zdunek US 5,115,233}.

As per **claims 11, 23 and 25**, Timm teaches a system for communication between at least one central station (figure 1, #15) and at least one remote mobile or stationary object (figure 1, #10 is vehicle-mounted hardware) by means of transmitting and receiving means wherein said at least one object comprises a cellular phone module which provides a private subscription for private usage by a driver or operator of the object (figure 1, #22 shows cellular transceiver which reads on a cell phone. Note that Applicant's specification also summarizes Timm as teaches both public and private cellular communications, Paragraph 3) and a selectable service subscription for transmitting and managing at least an emergency assistance service by means of the at least one central station (abstract teaches both and C1, L60 to C2, L30, also see C2, L60 to C3, L8) and wherein said emergency assistance service preempts ongoing phone calls such that ongoing phone calls are interrupted in deference thereto (C4, L37-45 teaches preempting a regular phone call in deference to an emergency phone call) **but is silent on** wherein each service has a priority value assigned thereto and means for automatically resolving conflict associated with simultaneous execution of a plurality of services ~~AND and/or automatically by means of at least one sensor (207) for detecting accidents, emergency or malfunctions of the object or by means of a further sensor for detecting an airbag deployment.~~ *(strike thru language not included since it*

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*contains alternative language, eg. "OR", only the manual switch as taught by Timm is included).*

The examiner notes that while Timm does not explicitly discuss a "priority value" he nonetheless can identify if/when an emergency call is being which will preempt a non-emergency call (which reads on a "type" or "priority" value being assigned).

**Uhlik** teaches providing a communications channel to a user if it is determined that said user is making an emergency call whereby a call in progress is disconnected (eg. preempted) in order to provide a communications circuit to said emergency call (Abstract). Even **Zdunek** teaches a generic programmable communication system that provides different levels of service (eg. priorities, see Abstract and C2, L19-24). Furthermore he explicitly states that a call can be preempted by an emergency call (C5, L11-17) which reads on assigning the HIGHEST priority level to an emergency call such that it overrides any other call.

**Nojima** teaches an emergency calling system that prioritizes who is to be contacted based on certain roadway conditions and/or accident (see abstract, figures 1 and 3).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Timm, ongoing calls are preempted for an emergency call, to provide means for insuring that an emergency call is always given priority and a communications channel.

**With further regard to claim 27**, Uhlik and Zdunek teaches preempting calls based on priority (eg. emergency), which reads on the claim, eg. wherein a conflict concerning simultaneous execution of several services during service subscription is handled automatically by assigning and affecting a priority to each service and deactivating any services with a minor priority than the service with a first priority.

As per **claim 12**, the combo teaches claim 11 and preempting ANY call (eg. a private usage transmission), see Timm, C4, L37-45 teaches preempting a regular phone call in deference to an emergency phone call)

As per **claim 15**, the combo teaches claim 11 and a central dispatch station and a vehicle (see Timm figure 1 shows response center and vehicle/car).

As per **claim 16**, the combo teaches claim 11 **but is silent** wherein the service subscription is activated by the central station or the remote object.

The examiner takes **Official Notice** that on-vehicle customer service subscriptions whereby a user can connect to a remote/central station is well known, eg. GM's On-Star\* is a subscription service that is purchased by a user for their car and activated by either the user or central station for normal operations).

It would have been obvious to one skilled in the art at the time of the invention to modify the combo, such that the subscription is activated by user/central station, to provide means for the user to purchase the subscription and then activate it when they begin using their new/used car.

*\*see Hoffberg '544*

As per **claim 17**, the combo teaches claim 11, **but is silent on** wherein a satellite communication (31) is provided for activation when cellular communication (30) is not available.

The examiner takes Official Notice that switching from one communications transceiver to another based on which service is currently available is well known and simply requires a dual-transceiver device.

It would have been obvious to one skilled in the art at the time of the invention to modify the combo, such that it switches to satellite, to provide communications service if/when cellular is not available.

As per **claim 18**, the combo teaches claim 11, wherein the at least one object comprises a controller module (200) for bi-directional communication with a data bus or network manager (201) which is connected with an internal data bus or network (208) of the object (See Timm, figure 1 which shows internal vehicle design with bus and controller all connected in network/bus fashion. Also see figure 5).

As per **claim 24**, the combo teaches claim 11 and transmission including at least remote status, malfunction, diagnostics, maintenance and technical information (Timm teaches the ability to send a message for roadside assistance, C2, L60 to C3, L3, which reads on status, malfunction and maintenance information, eg. roadside assistance message infers a status, eg. malfunction has occurred and maintenance being required).

**Claims 21, 22, 27-28, 32-33 and 34-37** rejected under 35 U.S.C. 103(a) as being unpatentable over Timm and further in view of Nojima and {Uhlik or Zdunek} and Sato.

As per **claims 21, 27-28, 32, 34 and 37**, Timm teaches a system for communication between at least one central station (figure 1, #15) and at least one remote mobile or stationary object (figure 1, #10 is vehicle-mounted hardware) by means of transmitting and receiving means wherein said at least one object comprises a cellular phone module which provides a private subscription for private usage by a driver or operator of the object (figure 1, #22 shows cellular transceiver which reads on a cell phone) and a selectable service subscription for transmitting and managing at least one of the services including roadside assistance and emergency by means of the at least one central station (abstract teaches both and C1, L60 to C2, L30) and Timm teaches **Power Up mode, Wait Mode and Activation mode** (see figure 2 and C3, L15-30) as well as automatic periodic call-in (#39) and Wake-up Control (#43) which read on the claim regarding "...sleep mode (S), a standby mode (W) and a first service execution mode (T1 ), wherein the sleep mode is terminated when a wake up timer elapsed and the standby mode is activated in which the object waits for an incoming message from the service center via a cellular and/or a satellite communication for a predetermined period of time, after which the sleep mode is again activated if no message has been received or a requested service is activated if a related message has been received and decoded..." and preempting ongoing phone calls such that emergency/higher priority calls are put through (C4, L37-45 teaches preempting a regular phone call in deference to an emergency phone call).



**but is silent on** remote status information, malfunction, and diagnostics and maintenance are monitored AND wherein a conflict concerning simultaneous execution of several services during service subscription is handled automatically by assigning and affecting a priority to each service and deactivating any services with a minor priority than the service with first priority.

The examiner notes that if only one communications means exists, then one skilled would need to ensure that service data is prioritized and is based on priority since simultaneous communications is not possible. Conversely, if multiple communication means exist, then service data can be sent via simultaneously and one does not have to prioritize data.

Nojima teaches an emergency calling system that prioritizes who is to be contacted based on certain roadway conditions and/or accident (see abstract, figures 1 and 3).

Uhlik teaches providing a communications channel to a user if it is determined that said user is making an emergency call whereby a call in progress is disconnected (eg. preempted) in order to provide a communications circuit to said emergency call (Abstract). Even **Zdunek** teaches a generic programmable communication system that provides different levels of service (eg. priorities, see Abstract and C2, L19-24). Furthermore he explicitly states that a call can be preempted by an emergency call (C5, L11-17) which reads on assigning the HIGHEST priority level to an emergency call such that it overrides any other call.

Note that Timm teaches FOUR distinct operational modes (eg. power up, wait, activation and communication mode) but not a distinct SLEEP mode which is well known in the art for battery conservation purposes. The examiner puts forth **Sato** as a teaching reference to explicitly teach that a SLEEP mode would also be used by Timm (see Sato's abstract and figure 1 and figure 3, Step 8).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the combo, such that ongoing calls are preempted for an emergency

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call and use of a sleep mode, to provide means for insuring that an emergency call is always given priority and a communications channel and for battery conservation.

***With further regard to claim 27***, Timm teaches preempting a normal call for an emergency call while Uhlik/Zdunek teaches prioritized calling/usage.

***With further regard to claim 28***, the following concepts were rejected previously (eg. as per claims 11 and 23): "...by means of transmitting and receiving means wherein said at least one object comprises a cellular phone module, which provides a private subscription for private usage by a driver or operator of the object and a selectable service subscription for transmitting and managing of at least one service like remote status information, malfunction diagnostics and maintenance as well as technical and emergency assistance, by means of the at least one central station....and a first service execution mode for activating the identified service". Note that Timm teaches pressing a button to activate roadside assistance or emergency help (C2, L60 to C3, L5) which reads on sending a message with status/malfunction/diagnostic implications.

***With further regard to claim 34***, the prior art teaches communications networks/systems (eg. cellular which uses a transceiver and subscription/phone number).

As per **claims 22 and 41**, the combo teach the method according to claim 21/37 wherein the at least one object has a phone mode (figure 1 shows cellular handset/transceiver #22/#25 **but is silent on** a second execution mode (T2), wherein the phone mode is interrupted when a service is requested and the second execution mode is activated, until a cellular and/or a satellite communication between the object and the central station has been established and the service has been executed.

**Nojima** teaches an emergency calling system that prioritizes who is to be contacted based on certain roadway conditions and/or accident (see abstract, figures 1 and 3). Activating a second mode allows for there to be prioritized levels of data and communications "types" such that one can preempt the other (eg. perhaps the second

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mode is an emergency mode communiqué and Nojima teaches prioritized calls which would preempt a normal voice call). **Uhlik** teaches preemption as does **Zdunek**.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the combo, such that there is a second execution mode, wherein the phone mode is interrupted when a service is requested, until a cellular and/or a satellite communication between the object and the central station has been established and the service has been executed, to provide means for connecting a service-based call to the central station even if the communication means is being used by the driver, to ensure the service-based call gets through to the central station.

As per **claim 26**, the combo teaches claim 23 and transmission including at least remote status, malfunction, diagnostics, maintenance and technical information (Timm teaches the ability to send a message for roadside assistance, C2, L60 to C3, L3, which reads on status, malfunction and maintenance information, eg. roadside assistance message infers a status, eg. malfunction has occurred and maintenance being required).

*\*see Hattori (previously presented).*

As per **claim 29**, the combo teaches claim 28, wherein the sleep mode is terminated and the standby mode is activated when a wake up timer elapsed – Timm teaches use of various “modes” which can use timers or wakeup signals to wakeup said device.

Sato teaches a sleep mode as well which can be event or timer based.

As per **claim 30**, the combo teaches claim 28, **but is silent on** wherein the standby mode is activated for a predetermined period of time, after which the sleep mode is again activated if no message has been received, or the first service execution mode and a requested service is activated if a related message has been received/decoded.

Sato teaches a timer-based battery conservation program (figure 3, Step 7).

The examiner takes **Official Notice** that sleep mode devices typically use a timer set to a predetermined time period in which sleep/wake operations occur, which reads on the claim. Another manner in which a device sleeps/wakes is based on receiving a wakeup signal (or page) from the network.

It would have been obvious to one skilled in the art at the time of the invention to modify the combo, such that the standby mode is activated for a predetermined period of time, after which the sleep mode is again activated if no message has been received, or the first service execution mode and a requested service is activated if a related message has been received and decoded, to provide means for coursing through the possible operational modes and how a trigger or timer changes the devices mode.

As per **claim 31**, the combo teaches claim 28, wherein at least one object has implemented a phone mode and a second execution mode, wherein the phone mode is interrupted when a service is requested, and the second execution mode is activated, until a cellular and/or a satellite communication between at least one object and at least one central station has been established and the requested service has been executed (the prior art of record clearly teaches emergency communications which preempts normal communications and the support for several different communications technologies, including at least cellular and satellite, which reads on interrupting and activating one-or-more communications paths depending on availability).

As per **claim 33**, the combo teaches claim 28, wherein the service subscription or a transition from private subscription to service subscription is initiated periodically and/or upon request of at least one central station or of at least one object, and/or by a key press of the operator and/or automatically by means of at least one sensor for detecting accidents, emergency or malfunctions of at least one object or by means of a further sensor for detecting an air-bag deployment or by an alarm in case of a theft (Timm teaches the user pressing a button to initiate service, C2, L60 to C3, L5. Also the prior art of record teaches that an emergency or accident can cause various communications to occur, eg. emergency signal is transmitted, call for help, etc – See at least Nojima.).

As per **claim 35**, the combo teaches claim 34 and a central dispatch station and a vehicle (see Timm figure 1 shows response center and vehicle/car).

As per **claim 36**, the combo teaches claim 34 **but is silent** wherein the service subscription is activated by the central station or the remote object.

The examiner takes **Official Notice** that on-vehicle customer service subscriptions whereby a user can connect to a remote/central station is well known, eg. GM's On-Star\* is a subscription service that is purchased by a user for their car and activated by either the user or central station for normal operations).

The examiner notes that remote-control of computers is possible and the prior art shows two-way transfer of voice/data, which reads on the central station activating a "service". NOTE: General Motors' ON STAR is a subscription-based service that is well known in the art (**see Lumelsky, referenced but not cited** – "General Motors Corporation introduced its OnStar system for the 1997 Cadillac model. By linking the car's cellular phone to a global positioning satellite, OnStar can locate and send help to a stranded or disabled motorist; including sending medical assistance as soon as it detects that the car's air bag has been deployed. OnStar's service center operator receives coordinates of an automobile equipped with the OnStar system and could navigate its user, over the cellular phone, with continuous directions").

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It would have been obvious to one skilled in the art at the time of the invention to modify the combo, such that the subscription is activated by user/central station, to provide means for the user to purchase the subscription and then activate it when they begin using their new/used car.

*\*see Hoffberg '544*

As per **claims 38-40**, the combo teaches claim 37 **but is silent on** a communicating object according to claim 37, wherein the cellular phone module, in the standby mode, is activated and the service subscription is selected OR wherein the cellular phone module, in the sleep mode, terminates and the standby mode is activated when a wake up timer elapses.

Timm teaches several modes and sleep mode is well known for battery saving. Hence one skilled who uses several modes is required to map out their "operation" depending upon the timed requirement for a transition to a new mode OR if a trigger causes a new mode transition (eg. 15minutes has expired or an accident has occurred).

Also see Sato who teaches a sleep mode based on a timer (Abstract, figure 3)

Therefore the examiner takes **Official Notice** the ability to transition from one specific mode to a second mode is a design choice predicated upon either the timer or the trigger causing said transition (eg. an emergency would transition the transceiver to operation mode and transmit a distress call whereas a timer-expiration would simply move the transition state up/down, eg. from sleep to standby to wake and back to sleep, etc.).

It would have been obvious to one skilled in the art at the time of the invention to modify the combo, such that the phone has different modes that are traveled through, to provide means for the device to transition from sleep, standby and active modes based upon timer or signal activation.

***Allowable Subject Matter***

**Claims 19 and 25** objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

These claims recite design that are novel over the prior art of record.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. D'Agosta whose telephone number is 571-272-7862. The examiner can normally be reached on M-F, 8am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dwayne Bost can be reached on 571-272-7023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Stephen M. D'Agosta/  
Primary Examiner, Art Unit 2617